

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DALE JOSEPH MCCOLLUM,

*Petitioner,*

vs.

STEPHANIE HUMPHREY, *et al.*,

*Respondents.*

3:02-cv-00468-LRH-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court on the petitioner's application (#30) for a certificate of appealability, which respondents have opposed (#32).

Under the standard set forth in *Slack v. McDaniel*, 529 U.S. 473, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000), jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right as to Grounds One and Three through Five. The law of the circuit establishes that this standard is not satisfied as to Ground Two, however. *See, e.g., Nevius v. McDaniel*, 218 F.3d 940, 944-45 (9<sup>th</sup> Cir. 2000). Accordingly, pursuant to 28 U.S.C. § 2253(c) and Rule 22(b) of the Federal Rules of Appellate Procedure,

IT THEREFORE IS ORDERED that the application (#30) for a certificate of appealability is GRANTED IN PART such that a certificate of appealability is granted as to all issues decided by the Court's order and judgment (## 28 & 29) denying the petition for a writ of habeas corpus as to Grounds One and Three through Five.

1 IT FURTHER IS ORDERED that the application (#30) for a certificate of appealability is  
2 DENIED IN PART such that a certificate of appealability is denied as to Ground Two.

3 DATED this 24<sup>th</sup> day of February, 2006.

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LARRY R. HICKS  
United States District Judge  
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